

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION**

SubAir Systems, LLC,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:06-cv-02620-RBH
)	
PrecisionAire Systems, Inc.,)	
Precision Small Engine Company,)	
and Andrew M. Masciarella,)	
)	
Defendants.)	
_____)	

DEFENDANTS' RULE 11 MOTION

Pursuant to Rule 11 of the Federal Rules of Civil Procedure, Defendants PrecisionAire Systems, Inc., Precision Small Engine Company, and Andrew M. Masciarella, (collectively “Defendants”) hereby move this Court for an Order dismissing this case with prejudice and awarding reasonable attorneys fees and costs. The basis for this motion is that Plaintiff SubAir Systems, LLC failed to conduct a reasonable inquiry into the structure and operation of the products accused of infringing Plaintiff’s patents before filing the present Complaint alleging infringement of U.S. Patent Nos. 5,433,759, 5,507,595, 5,542,208, 5,617,670, 5,636,473, and 7,033,108. As a result, the allegations and factual contentions in the Complaint lack evidentiary support. Furthermore, since the filing of the present litigation, Defendants have provided Plaintiff an opportunity to view the product accused of infringement to resolve any questions Plaintiff may have regarding the structure or operation of the accused product. Despite this inspection, Plaintiff has not withdrawn any allegations of infringement and Plaintiff’s discovery responses confirm that Plaintiff’s allegations and factual contentions continue to lack evidentiary support.

The bases and legal authority of this Motion are set forth more fully in a Memorandum in Support filed contemporaneously herewith and incorporated herein by reference.

Defendants respectfully request the Court enter an Order:

1. dismissing this action with prejudice;
2. sanctioning Plaintiff for violation of Rule 11;
3. awarding Defendants their attorneys fees and costs incurred in this action; and
4. awarding such other and further relief as the Court may determine is just and proper.

Respectfully submitted,

Attorneys for Defendants

September 6, 2007

s/ Steven R. LeBlanc
Steven R. LeBlanc (Fed. ID #7000)
Rodney K. E. Mintz (Fed. ID #9787)
DORITY & MANNING, P.A.
P.O. Box 1449
Greenville, S.C. 29602-1449
Tel: 864-271-1592
Fax: 864-233-7342

Certificate of Service

I hereby certify that on September 6, 2007, I electronically filed **DEFENDANT'S RULE 11 MOTION** with the Clerk of the Court using the CM/ECF system which will automatically send e-mail notification of such filing to the following attorney of record:

Cort Flint
McNair Law Firm, P.A.
P.O. Box 10827
Greenville, SC 29603-0827
864-232-4261
864-232-4437 (fax)
cflint@mcnair.net

DATE: September 6, 2007

s/ Steven R. LeBlanc
Steven R. LeBlanc (Fed. ID #7000)
DORITY & MANNING, P.A.
P.O. Box 1449
Greenville, S.C. 29602-1449
Tel: 864-271-1592
Fax: 864-233-7342
srl@dORITY-manning.com